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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RENATUS JOSEPHUS VAN DER VLEUTEN
and MIHAELA VAN DER SCHAAR

Appeal 2008-005062
Application 09/975,382
Technology Center 2400

Decided: February 24, 2010

Before LANCE LEONARD BARRY, JOHN A. JEFFERY, and JAMES R. HUGHES, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's rejection of claims 1-19. We have jurisdiction under 35 U.S.C. § 6(b) (2008). We affirm.

STATEMENT OF THE CASE

Appellants invented a technique for coding multimedia objects to obtain a bitstream to which "quality information" is added. The quality information indicates object distortion when the bitstream is truncated during decoding. *See generally* Abst.; Spec. 1-2.

Claim 1 is illustrative:

> 1. A method of coding a multi-media object, the method comprising:
>
> coding the object to obtain a bit-stream having multiple coded parts, each coded part including a header and a data part,
>
> generating quality information which indicates distortion of the object when the bit-stream is truncated during decoding in relation to the data parts of the coded parts of the bit-stream, and
>
> adding the quality information into the headers of the coded parts of the bitstream such that the quality information is situated throughout the bit-stream.

The Examiner relies on the following as evidence of unpatentability:

Simon	US 4,918,523	Apr. 17, 1990
Girod	US 5,809,139	Sept. 15, 1998
Nishiwaki	US 5,892,848	Apr. 6, 1999
Park	US 6,148,288	Nov. 14, 2000
Shin	US 6,493,387 B1	Dec. 10, 2002

THE REJECTIONS

1. The Examiner rejected claims 1-3, 5-7, 9-11, 13-16, 18, and 19 under 35 U.S.C. § 103(a) as unpatentable over Park, Nishiwaki, and Simon. Ans. 3-9.[1]
2. The Examiner rejected claims 12 and 17 under 35 U.S.C. § 103(a) as unpatentable over Park and Nishiwaki. Ans. 9-10.
3. The Examiner rejected claim 8 under 35 U.S.C. § 103(a) as unpatentable over Park, Nishiwaki, Simon, and Girod. Ans. 10-11.
4. The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as unpatentable over Park, Nishiwaki, Simon, and Shin. Ans. 11-12.

CLAIM GROUPING

Regarding the first obviousness rejection, Appellants argue the following claim groupings separately: (1) claims 1-3 and 5-7; (2) claim 9; (3) claim 10; (4) claim 11; (5) claims 13 and 14; (6) claims 15, 16, and 18; (7) claim 19. *See* Br. 9-15. Accordingly, we treat each group separately, and select claims 1, 13, and 15 as representative of groups (1), (5), and (6), respectively. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2008).

THE OBVIOUSNESS REJECTION OVER PARK, NISHIWAKI, AND SIMON

Regarding representative claim 1, the Examiner finds that Park codes an object to obtain a multi-part bitstream, and generates "quality information" (i.e., side information including quantization step size and bit

[1] Throughout this opinion, we refer to the Appeal Brief filed August 10, 2007 and the Examiner's Answer mailed November 16, 2007.

information) throughout the bitstream indicating object distortion (i.e., the noise ratio). Ans. 3, 4, 13, 14. The Examiner also finds that (1) Nishiwaki teaches adding quality information into the headers of coded parts of the bitstream, and (2) Simon associates quality (quantization) information with bitstream truncation during decoding. Ans. 4, 14, 15. Based on these collective teachings, the Examiner concludes claim 1 would have been obvious. Ans. 3-5, 13-15.

Appellants argue that the cited prior art does not teach or suggest generating quality information indicating object distortion when a bitstream is truncated during decoding in relation to the data parts of the bitstream's coded parts as claimed. Br. 9. According to Appellants, Park fails to generate quality information indicating object distortion, and using Park's quantization step-size information as a distortion measure will not provide substantially-uniform-quality decoding as in the claimed invention. Br. 9-10. Appellants add that there is no reason to combine the cited references since it is unclear how combining Park's scalable audio coder/decoder with Simon's variable quantization technique will affect the decoder's complexity. Br. 11.

The issues before us, then, are as follows:

ISSUES

(1) Under § 103, have Appellants shown that the Examiner erred in rejecting claim 1 by finding that Park, Nishiwaki, and Simon collectively teach or suggest coding a multimedia object by generating quality information indicating object distortion when the object's bitstream is

truncated during decoding in relation to the data parts of the bitstream's coded parts?

(2) Is the Examiner's reason to combine the teachings of these references supported by articulated reasoning with some rational underpinning to justify the Examiner's obviousness conclusion?

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence:

1. We adopt the Examiner's findings regarding (1) Park (Ans. 3, 4, 13, 14, 16); (2) Nishiwaki (Ans. 4, 14, 15, 17); and (3) Simon (Ans. 4, 15, 17) as our own.

PRINCIPLES OF LAW

To be patentable under § 103, an improvement must be more than the predictable use of prior art elements according to their established functions. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

ANALYSIS

Claims 1-3 and 5-7

Based on the record before us, we find no error in the Examiner's obviousness rejection of representative claim 1 essentially for the reasons articulated by the Examiner.

We agree with the Examiner's analysis of Park (Ans. 13-14), and find no error in the Examiner's reasoning (Ans. 14) that Park's generating quantization step-size and bit information is at least related to quantization

noise (i.e., object distortion). We also find no error in the Examiner's reliance on Nishiwaki for adding quality information into the headers of coded parts of the bitstream (Ans. 4, 14, 15). Nor are we persuaded of error in the Examiner's reliance on Simon for associating quality (quantization) information with bitstream truncation during decoding (Ans. 4, 15). Additionally, Appellants' argument that Park's quantization step-size information does not provide substantially uniform quality decoding as a distortion measure (Br. 9-10) is not commensurate with the scope of claim 1. We also find the Examiner's reason to combine the cited references has at least a rational basis on this record and, in any event, is tantamount to the predictable use of prior art elements according to their established functions—an obvious improvement. *KSR*, 550 U.S. at 417. Although Appellants contend that it is unclear how combining Park's scalable audio coder/decoder with Simon's variable quantization technique will affect the decoder's complexity (Br. 11), we find this argument unavailing given the predictable use of the known elements according to their established functions indicated by the Examiner (Ans. 13-16).

We are therefore not persuaded that the Examiner erred in rejecting representative claim 1, and claims 2, 3, and 5-7 which fall with claim 1.

Claim 9

We also sustain the Examiner's rejection of claim 9 for the reasons indicated previously and those indicated by the Examiner (Ans. 6, 7, 16, 17). Moreover, apart from merely alleging that the cited references fail to identify where the prior art teaches the extracting and transcoding or truncating steps (Br. 12), Appellants do not particularly point out errors in

the Examiner's findings or reasoning based on Park's decoding process to persuasively rebut the Examiner's obviousness conclusion. Moreover, Appellants have not shown error in the Examiner's reliance on Simon (Ans. 7, 17) for at least suggesting truncating the bitstream to obtain a desired bit-rate and distortion as claimed.

We are therefore not persuaded that the Examiner erred in rejecting claim 9.

Claim 10

We also sustain the Examiner's rejection of claim 10 for the reasons indicated previously and those indicated by the Examiner (Ans. 13-15). Moreover, apart from merely alleging that the cited references fail to teach or suggest generating quality information as claimed (Br. 12-13), Appellants do not particularly point out errors in the Examiner's findings or reasoning to persuasively rebut the Examiner's obviousness conclusion. We are therefore not persuaded that the Examiner erred in rejecting claim 10.

Claims 11, 15, 16, and 18

We also sustain the Examiner's rejection of claim 11 for the reasons discussed previously regarding claim 9, which recites commensurate limitations.

For similar reasons, we also sustain the rejection of representative claim 15, and claims 16 and 18 which fall with claim 15.[2]

[2] We note in passing that Appellants' argument regarding claim 15 is also not commensurate with the scope of the claim. Although Appellants contend that the cited prior art does not teach or suggest "*transcoding* or

Claims 13, 14, and 19

We also sustain the Examiner's rejection of claims 13, 14, and 19 for the reasons discussed previously regarding claim 1 which recites commensurate limitations.

THE OBVIOUSNESS REJECTION OVER PARK AND NISHIWAKI

Regarding claims 12 and 17, the Examiner finds that Park discloses all claimed subject matter except for extracting the quality information from the headers of the coded parts of the bitstream. Ans. 9, 10, 17. The Examiner, however, relies on Nishiwaki for this feature in concluding that the claim would have been obvious. *Id.*

Appellants argue that neither Park nor Nishiwaki teach or suggest (1) "receiving quality information indicating object distortion in relation to a given position in the bitstream upon truncation," and (2) "processing the multimedia object in dependence on the extracted quality information." Br. 17-18.

The issue before us, then, is as follows:

ISSUE

Under § 103, have Appellants shown that the Examiner erred in rejecting claim 12 by finding that Park and Nishiwaki collectively teach or suggest:

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truncating the at least one bit-stream[,]" (Br. 15) (emphasis added), claim 15 recites only means for *truncating* the bitstream.

(1) receiving quality information indicating object distortion in relation to a given position in the bitstream upon truncation, and

(2) processing the multimedia object in dependence on the extracted quality information?

ANALYSIS

Based on the record before us, we find no error in the Examiner's obviousness rejection of claims 12 and 17 essentially for the reasons discussed previously and those articulated by the Examiner.

We agree with the Examiner's analysis of Park (Ans. 9, 10, 13-15, 17), and find no error in the Examiner's reasoning (Ans. 14) that Park at least suggests (1) extracting quality information from coded parts of the bitstream, and (2) processing a multimedia object in dependence on the extracted quality information as part of its decoding process.

We are therefore not persuaded that the Examiner erred in rejecting claims 12 and 17.

OTHER OBVIOUSNESS REJECTIONS

We will also sustain the Examiner's obviousness rejections of (1) claim 8 over Park, Nishiwaki, Simon, and Girod (Ans. 10-11), and (2) claim 4 over Park, Nishiwaki, Simon, and Shin (Ans. 11-12). Appellants have not particularly pointed out errors in the Examiner's reasoning to overcome the Examiner's conclusion of obviousness, but merely reiterate similar arguments made in connection with claim 1. Br. 16. We are not persuaded by these arguments, however, for the reasons previously discussed. The rejections are therefore sustained.

CONCLUSION

Appellants have not shown that the Examiner erred in rejecting claims 1-19 under § 103.

ORDER

The Examiner's decision rejecting claims 1-19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

nhl

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